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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	MAIL STOP
Fabrizio Alessandro Maspero et al.)	
Application No.: 10/507,094)	Group Art Unit: 4133
Filed: September 3, 2004)	Examiner: JEFFREY T PALENIK
For: POROUS BIOCOMPATIBLE)	Confirmation No.: 8971
IMPLANT MATERIAL AND)	
METHOD FOR ITS FABRICATION)	
)	

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In an Official Action dated July 21, 2004, the Examiner has indicated that restriction to one of the following inventions is required under 35 U.S.C. § 121:

- Group I: Claims 14-43, drawn to a biodegradable and biocompatible polymer-coated, body cavity implant;
- Group II: Claims 44-53, drawn to a method of forming a biodegradable and biocompatible polymer-coated, body cavity implant via pressurized sterilization and fusion of a mold; and
- Group III: Claims 54-63, drawn to a method of forming a biodegradable and biocompatible polymer-coated, body, cavity implant via heat treatment.

Accordingly, Applicants provisionally elect Group I, the subject matter of Claims 14-43, with traverse. Applicants submit that the restriction requirement is in error. It is believed that in examining the non-elected claims, the Examiner will search the same classes of art as is required to search the invention of the elected

claims, resulting in the same references being cited against all of the aforementioned groups of claims.

Thus, this restriction will not reduce the workload of the U.S. Patent and Trademark Office or simplify prosecution of the application. As set forth in M.P.E.P. Section 803, there are two criteria for a proper restriction requirement between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; and (2) there must be a **serious burden** on the Examiner if restriction is not required. This portion of the M.P.E.P. requires that if the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on the merits, even though it includes claims to distinct or independent inventions.

Accordingly, reconsideration and withdrawal of the aforementioned restriction requirement is respectfully requested. The provisional restriction is hereby made without prejudice to Applicants' right to file a divisional application or applications should the restriction and election requirements become final.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

Date: November 21, 2007

By:



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